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COMMISSIONERS

SUSAN BITTER SMITH, Chairman
 BOB STUMP
 BOB BURNS
 DOUG LITTLE
 TOM FORESE

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BEFORE THE ARIZONA CORPORATION COMMISSION
 DOCKET CONTROL

ORIGINAL

In the matter of:

Docket No. S-20906A-14-0063

CONCORDIA FINANCING COMPANY, LTD,
 a/k/a "CONCORDIA FINANCE,"

APPLICATION FOR
 ADMINISTRATIVE SUBPOENA

ER FINANCIAL & ADVISORY SERVICES,
 LLC,

LANCE MICHAEL BERSCH, and

Arizona Corporation Commission
 DOCKETED

DAVID JOHN WANZEK and LINDA
 WANZEK, husband and wife,

FEB 17 2015

Respondents.

DOCKETED BY

TO THE EXECUTIVE DIRECTOR
 OF THE ARIZONA CORPORATION COMMISSION:

Pursuant to A.R.S. § 44-1823 and A.A.C. R14-3-109, Respondents, ER Financial & Advisory Services, LLC, Lance Michael Bersch, David John Wanzek, and Linda Wanzek (the "ER Respondents") request the issuance of a subpoena in connection with the above-captioned action, commanding:

Expert Accounting Witness
 to be designated by the
 Securities Division
 Arizona Corporation Commission
 1300 West Washington, 3rd Floor
 Phoenix, Arizona 85007

to appear before an officer authorized by law to administer oaths for a deposition taken upon oral examination, continuing from day to day until such deposition(s) have been completed, to testify under oath and to produce the documents identified in Exhibit A.

SNELL & WILMER
 LLP
 ONE ARIZONA CENTER
 400 E. VAN BUREN, SUITE 1900
 PHOENIX, ARIZONA 85004-2202

1 The ER Respondents had previously issued a Notice of Deposition (Rule 30(b)(6)) for
2 this deposition on November 24, 2014, but at the February 11, 2015 Procedural Conference
3 the Administrative Law Judge instructed the ER Respondents to obtain an administrative
4 subpoena to proceed with the deposition.

5 There is a reasonable need for the deposition, in order for the ER Respondents to prepare
6 for the administrative hearing, because accounting expert witness for the Division is expected to
7 be an important witness in the administrative hearing.¹ Moreover, the ER Respondents still do
8 not know basic and critical facts regarding the administrative charges against them, including:

- 9 1) the names of the 193 alleged investors;
- 10 2) what amount of restitution the Division seeks against them;
- 11 2) which of the 446 alleged investments each of them allegedly sold;
- 12 3) which of the 193 investors each respondent allegedly sold to;
- 13 4) which of the respondents made the allegedly fraudulent statements, to whom
14 and when ;
- 15 6) the dollar amount of the alleged securities sold by each particular respondent
16 and the amounts the investor was paid back for each of those alleged securities.

17 Further, the administrative charges date back 15 years or more, and the ER Respondents have
18 few remaining records to assist them in preparing their defense.² Thus, the deposition is
19 reasonably necessary to prepare a defense.

20 ///

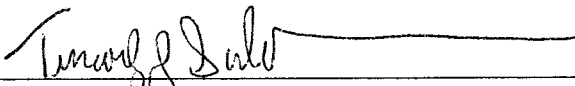
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25 ¹ The subpoena application form on the Commission's website contains no provision for a
26 showing of "reasonable need" and such a showing has traditionally not been required by the
27 Commission for the issuance of a subpoena. However, this information is included to prevent an
28 anticipated objection from the Securities Division.

² See affidavit of David Wanzek, attached as Exhibit E to the ER Respondents' Motion to Compel
submitted on February 10, 2015.

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2
3 RESPECTFULLY SUBMITTED this 17th day of February 2015.
4
5

6 By 

7 Timothy J. Sabo
8 SNELL & WILMER L.L.P.
9 One Arizona Center
10 400 East Van Buren
11 Phoenix, AZ 85004-2202
12 Phone: 602.382.6347
13 E-mail: tsabo@swlaw.com

14 and

15 Paul J. Roshka, Jr.
16 POLSINELLI, P.C.
17 One East Washington St., Suite 1200
18 Phoenix, AZ 85004-2568
19 Phone: 602.650.2098
20 Email: proshka@polsinelli.com

21 *Attorneys for the ER Respondents*
22
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25
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28

1 Submitted this this 17th day of February 2015 by
2 hand delivery to:

3 Executive Director's Office,
4 Arizona Corporation Commission,
5 1200 West Washington, 2nd Floor
6 Phoenix, Arizona 85007

7 Original + 13 copies of the foregoing
8 filed this 17th day of February 2015, with:

9 Docket Control
10 Arizona Corporation Commission
11 1200 West Washington
12 Phoenix, Arizona 85007

13 Copies of the foregoing hand-delivered/mailed
14 this ____th day of February 2015, to:

15 Mark H. Preny, Esq.
16 Administrative Law Judge
17 Hearing Division
18 Arizona Corporation Commission
19 1200 West Washington
20 Phoenix, Arizona 85007

21 James D. Burgess, Esq.
22 Securities Division
23 Arizona Corporation Commission
24 1300 West Washington, 3rd Floor
25 Phoenix, Arizona 85007

26 Alan S. Baskin, Esq.
27 David E. Wood, Esq.
28 Baskin Richards, PLC
80 East Rio Salado Parkway, Suite 511
Tempe, Arizona 85281
Attorneys for Concordia Finance Company, LTD.

By Jacklyn Howard

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Exhibit A

Documents to be produced

1. The testifying expert's entire file, pursuant to *Slate v. Schneider*, 212 Ariz. 176, 129 P.3d 465 (App. 2006).
2. All spreadsheets, electronic reports, or databases used by the testifying expert to prepare their testimony or to reach their conclusions, in native electronic format.
3. All accounting records received from Respondent Concordia Financing Company, Ltd., in native electronic format if applicable.
4. All reports generated by the testifying expert.
5. Supporting calculations for each conclusion of the testifying expert.

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 BOB STUMP - Chairman
4 GARY PIERCE
5 BRENDA BURNS
6 BOB BURNS
7 SUSAN BITTER SMITH

8 In the matter of:

Docket No. S-20906A-14-0063

9 CONCORDIA FINANCING COMPANY, LTD,
10 a/k/a "CONCORDIA FINANCE,"

SUBPOENA

11 ER FINANCIAL & ADVISORY SERVICES,
12 LLC,

13 LANCE MICHAEL BERSCH, and

14 DAVID JOHN WANZEK and LINDA
15 WANZEK, husband and wife,

16 Respondents.

17 TO:

Expert Accounting Witness to be designated by the
Securities Division
Arizona Corporation Commission
1300 West Washington, 3rd Floor
Phoenix, Arizona 85007

18 YOU ARE HEREBY COMMANDED, pursuant to A.R.S. § 44-1823 and A.A.C. R14-3-
19 109, to appear before to appear before an officer authorized by law to administer oaths for a
20 deposition taken upon oral examination, continuing from day to day until such deposition(s) have
21 been completed, on the 7th day of April, 2015, at 10 o'clock a.m., to testify under oath and to produce
22 the documents listed in Exhibit "A."

23 YOU HAVE BEEN SUBPOENED BY:

24 Timothy J. Sabo
25 SNELL & WILMER, L.L.P.
26 One Arizona Center
27 400 East Van Buren
Phoenix, AZ 85004-2202
Phone: 602.382.6347
E-mail: tsabo@swlaw.com

28 Persons with a disability may request a reasonable accommodation such as a sign language
interpreter, as well as request this document in an alternative format, by contacting Shaylin A. Bernal,
Executive Assistant to the Executive Director, voice phone number 602-542-3931, e-mail
sabernal@azcc.gov. Requests should be made as early as possible to allow time to arrange the
accommodation.

1
2 and

3 Paul J. Roshka, Jr.
4 POLSINELLI, P.C.
5 One East Washington St., Suite 1200
6 Phoenix, AZ 85004-2568
7 Phone: 602.650.2098
8 Email: proshka@polsinelli.com

9 Who are the attorneys for Respondents ER Financial & Advisory Services, LLC,
10 Lance Michael Bersch, David John Wanzek, and Linda Wanzek

11 DISOBEDIENCE OF THIS SUBPOENA constitutes contempt of the Arizona Corporation
12 Commission and may subject you to further proceedings and penalties under law, pursuant to
13 A.R.S. § 44-1825.

14 Given under by hand the seal of the Arizona Corporation Commission this _____ day
15 of _____, 20____.

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Jodi A. Jerich, Executive Director
Arizona Corporation Commission

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Shaylin A. Bernal, Executive Assistant to the Executive Director, voice phone number 602-542-3931, e-mail sabernal@azcc.gov. Requests should be made as early as possible to allow time to arrange the accommodation.

Exhibit A

Documents to be produced

1. The testifying expert's entire file, pursuant to *Slate v. Schneider*, 212 Ariz. 176, 129 P.3d 465 (App. 2006).
2. All spreadsheets, electronic reports, or databases used by the testifying expert to prepare their testimony or to reach their conclusions, in native electronic format.
3. All accounting records received from Respondent Concordia Financing Company, Ltd., in native electronic format if applicable.
4. All reports generated by the testifying expert.
5. Supporting calculations for each conclusion of the testifying expert.